

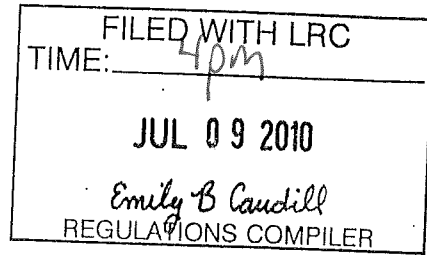
301 KAR 1:010

Commercial boat docks, concession stands, and boat rental facilities

This administrative regulation establishes the approval process for department authorized commercial boat docks, concession stands, and boat rental facilities on lakes and shoreline owned or controlled by the department. It also establishes protocol for notifying the general public and adjacent landowners and provides for a public comment process.

Significant Changes

This amendment further delineates a formal process for a person, firm, or corporation to request a commercial facility on department owned or controlled property and defines the procedure for the department to receive and review public input to consider such formal development requests to try and determine if it is in the best interest of the department and the public.



1 TOURISM, ARTS AND HERITAGE CABINET

2 Kentucky Department of Fish and Wildlife Resources

3 (AMENDMENT)

301 KAR 1:010. Commercial boat docks, concession stands, and boat rental facilities. [~~Boat docks~~

~~and concession stands.~~]

RELATES TO: KRS 150.025(1) [~~150.025, 150.620~~]

STATUTORY AUTHORITY: KRS. [~~13A.350,~~] KRS 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.620 authorizes the department to

promulgate administrative regulations for the maintenance and operation of the lands it has

acquired for public recreation. This administrative regulation establishes the approval process for

the construction of commercial boat docks, concession stands, and boat rental facilities on lakes

and shoreline owned or controlled by the department.

Section 1. Written Request, Public Notice, and Public Hearings. (1) The following activities shall

be prohibited on department owned or controlled lakes and shorelines without prior written

approval from the department:

(a) Construction and operation of a commercial boat dock;

(b) Construction and operation of a concession stand; and

(c) Boat rental.

(2) A person, firm, or corporation may submit to the department, in writing, a request to conduct

the activities specified in subsection 1 of this section.

(3) Upon receipt of a written request, the department shall:

(a) Provide notice to the general public of the request;

1 (b) Provide written notice to all known adjacent property owners on the lake for which the request
2 was made; and

3 (c) Hold a public hearing a time and location most convenient to the public at a location within ten
4 (10) miles of the boundary of the lake so that the public may make comments about the proposed
5 commercial request.

6 (4) The notices specified in subsection 3 of this section shall include:

7 (a) At least a thirty (30) day written comment period; and

8 (b) The date of the next scheduled quarterly meeting involving the Fish and Wildlife Commission
9 when the commercial request will be considered.

10 Section 2. Department Review and Approval. (1) The department shall:

11 (a) Review and consider all written and verbal comments received from the public;

12 (b) Provide to the Fish and Wildlife Commission:

13 1. All written comments received and a synopsis of all verbal comments received; and

14 2. A recommendation on the final decision.

15 (2) The Commission shall:

16 1. Review and consider all comments received; and

17 2. Approve or deny the request.

18 (3) If one or more of the activities specified in Section 1 of this administrative regulation are
19 approved by the Fish and Wildlife Commission, a person, firm, or corporation shall not begin
20 construction or operation of a commercial boat dock, concession stand, or boat rental business until
21 possessing a signed agreement from the Commissioner of the department.

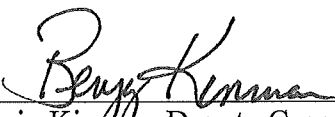
22 ~~[NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation prohibits boat~~
23 ~~docks and concessions on lakes and property owned by the Department of Fish and Wildlife~~

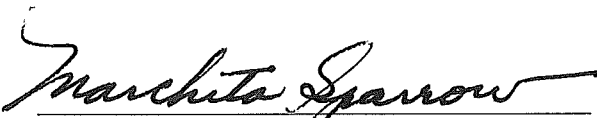
~~Resources without the written consent of the commissioner. It is necessary in order that the department may have control over boat docks and concessions.~~

~~Section 1. No person, firm, or corporation shall build or attempt to build any boat docks, or operate, or attempt to operate any boat docks, or have and maintain any boats for hire, or maintain or operate any concession stands on any of the Department of Fish and Wildlife Resources lakes or property without written consent to do so from the Commissioner of the Department of Fish and Wildlife Resources and with the approval of the Fish and Wildlife Resources Commission.~~

~~Section 2. This administrative regulation applies only to lakes and property owned by the Department of Fish and Wildlife Resources.]~~

Approved by the Fish and Wildlife Commission June 11, 2010.

 7/6/10
Benjy Kinman, Deputy Commissioner, for
Dr. Jonathan Gassett, Commissioner
Department of Fish and Wildlife Resources


Marcheta Sparrow, Secretary
Tourism, Arts and Heritage Cabinet

07/08/10
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 24, 2010, at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled.

This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made available unless a written request for a transcript is made.

If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation by August 31, 2010.

Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

Rose Mack
Kentucky Department of Fish and Wildlife Resources
1 Sportsman's Lane
Frankfort, Kentucky 40601
(502) 564-7109, Ext. 4507 FAX (502) 564-9136

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

301 KAR 1:010. Commercial boat docks and concession stands.

Contact Person: Rose Mack

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the approval process for department authorized commercial boat docks, concession stands, and boat rental facilities on lakes and shoreline owned or controlled by the department. It also establishes protocol for notifying the general public and adjacent landowners and provides for a public comment process.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to standardize the process for consideration of new commercial facilities on department owned or controlled lakes. It is also important to provide a system of public input into this process.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.620 authorizes the department to promulgate administrative regulations for the maintenance and operation of the lands it has acquired for public recreation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will help the department maintain and operate lands acquired for public recreation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment further delineates a formal process for a person, firm, or corporation to request a commercial facility on department owned or controlled property and defines the procedure for the department to receive and review public input to consider such formal development requests to try and determine if it is in the best interest of the department and the public.

(b) The necessity of the amendment to this administrative regulation: The amendment was necessary to clearly define a formal process that was previously lacking.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the authorizing statute by improving a process that will assist the department in managing and operating lands acquired for public recreation. It also allows for public input into this process.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will better assist the department in the effective administration of the statutes by improving public input and better defining the process.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The future number of formal requests for

commercial boat docks, concession stands, and boat rental facilities is unknown, but it is extremely rare for the department to receive such requests. If a request is received by the department, then the department, the general public, and all adjacent landowners may be affected by this regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: A person, firm, or corporation requesting an activity covered by this regulation will have to provide a formal written request to the department. The department will have to follow a defined process that includes providing public notice, written notice to adjacent landowners, and holding a public hearing. The department will have to collect and review all public input and ultimately make a decision on approval or disapproval. The public will have several opportunities to provide input.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will not be a cost for the entities in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The public and the department will benefit from a more defined and clarified protocol when considering a commercial boat dock, concession stand, or boat rental facility. The amended process will be reasonable, fair, and transparent.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There should not be a new cost to the administrative body other than transportation costs and rental costs associated with the public hearing.

(b) On a continuing basis: The potential costs are negligible.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It will not be necessary to increase fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No new fees were established or increased as a result of this amendment.

(9) TIERING: Is tiering applied? (Explain why or why not) No, all people involved in the process will be treated consistently and equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 301 KAR 1:010

Contact Person: Rose Mack

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)?

Yes X No _____

If yes, complete questions 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Fish and Wildlife Resources and the Fish and Wildlife Commission will be impacted by this regulation amendment.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.620 authorizes the procedures outlined in this regulation.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will not generate income for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation should not generate income for subsequent years.

(c) How much will it cost to administer this program for the first year? The cost is negligible.

(d) How much will it cost to administer this program for subsequent years? The cost is negligible.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: There should not be a fiscal impact.